

Remarks/Arguments

I. Introduction

Originally submitted claims numbered 1-16 remain in the application for examination on the merits and are submitted as patentable over the cited art of record in light of the discussion herein.

II. Affirmation of Provisional Election

Applicant affirms the provisional election made during a telephone conversation with the Examiner on 3/11/03 to prosecute the invention of group 1, claims 1-16.

III. Summary of Office Action

In the Office Action dated April 1, 2003, claims 1-16 were rejected under 35 U.S.C. §112 as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Claims 1-4, 7, and 13-16 were rejected under 35 U.S.C. §103 as being patentable over U.S. Patent No. 3,251,159 (Trice) in view of U.S. Patent No. 5,326,328 (Robinson).

Claims 5-6 were rejected under 35 U.S.C. §103 as being unpatentable over Trice in view of U.S. Patent No. 6,434,896 (Mitchell) and Robinson.

Claims 8-12 were rejected under 35 U.S.C. §103 as being unpatentable over Trice in view of Mitchell in further view of U.S. Patent No. 6,385,919 (McCarthy).

III. Rejections under 35 U.S.C. §112

In the Office Action, the Examiner states that “[t]he disclosure and claims recite a monolithic outer shell. However, figure 5 and the disclosure also disclose that the same is not monolithic. See the many pieces/elements of the outer shell and the corresponding disclosure.”

The Examiner correctly points out that figure 5 depicts many pieces and elements. However, this figure does not show the monolithic outer shell and only discloses the top portion, spacing element, and bottom portion of the removable outer mold before it is secured about the permanent inner mold surface. The "many pieces/elements" shown in figure 5 relate exclusively to the mold used to manufacture the monolithic outer shell.

The monolithic outer shell is clearly shown as reference numeral 150 throughout FIGS. 1, 2, and 4 and is described throughout the specification as being formed from a single continuous pour of concrete.

Other figures show parts which are put together to show the outer shell

IV. Rejections under 35 U.S.C. §103

The Examiner rejected claims 1-4, 7, and 13-16 under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 3,251,159 (Trice) in view of U.S. Patent No. 5,326,328 (Robinson). Claims 5-6 were rejected under 35 U.S.C. §103 as being unpatentable over Trice in view of U.S. Patent No. 6,434,896 (Mitchell) and Robinson and claims 8-12 were rejected under 35 U.S.C. §103 as being unpatentable over Trice in view of Mitchell in further view of U.S. Patent No. 6,385,919 (McCarthy).

The Examiner states that Trice describes a "**monolithic outer shell formed from a single pour of concrete**". The Applicant respectfully disagrees as set forth below.

The patent issued to Trice discloses a structure that "**is made in segments which are simple to handle and assemble**" with "**every member interlocked with every other member**". (See column 1, lines 38-40, 47-48). As such, it is seen that the structure shown and described in Trice has a number of joints contained therein and does not disclose a monolithic outer concrete shell. In fact, Trice specifically states that the "**the parts are assembled together and grouted at the joints to form a tight sealed unit**". (see column 1, lines 67-68).

Trice is as much as a monolithic as a plain concrete

As shown in fig 5 & 6

The end walls, sidewalls, roof, floor, blast wall, and hatchway of Trice are formed of distinct independent segments that must be secured together by way of an intricate plurality of interlocking tongues, notches, and flanges. (see column 2, lines 27-66).

same as applicants

The Examiner also states that the spherical polyhedron shape of Applicant's structure is disclosed in Mitchell and that the **"structure of Mitchell is formed without joints"**. Additionally, the Examiner states that Mitchell discloses pipes and rebars for improved strength.

Initially, the Applicant respectfully disagrees that Mitchell discloses a shape having **"a horizontal top/bottom panel and a plurality of generally vertical side walls between the top and bottom panels"** as stated by the Examiner. Mitchell merely discloses a structure formed from a dome-shaped upper half and a hemispherical lower half with no mention of horizontal or generally vertical surfaces. *The drawings show the horizontal top & bottom. See Annotation*

Additionally, the Applicant disagrees that **"the structure of Mitchell is formed without joints"**. The top half and lower half disclosed in Mitchell are formed with a joint therebetween. Specifically, Mitchell states that **"[t]he upper half may be attached to the lower half with bolts. However, a preferred method for attaching the upper half to the lower half is to use a bonding material embedded with wire"**. (see column 9, lines 35-37). Finally, the wires in Mitchell are not structural rebar, but merely electrical conduit designed for the sole purpose of melting the bonding material when an electrical current is applied. (column 9, lines 45-65). *As is shown in Applicant's Exhibits*

Neither Trice nor Mitchell teach or suggest a **"a monolithic outer shell formed from a single pour of concrete"** as described and claimed by Applicant in pending independent claims 1 and 13. Dependent claims 2-12, and 14-16 include additional limitations over these base claims and are also submitted to be in full condition for allowance. With regard to the additional art of record, Applicant submits that none of the remaining references, taken individually or in combination, disclose applicant's invention as recited in the currently pending claims. Accordingly, applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Should the Examiner feel that a personal discussion might be helpful in advancing the case to allowance, she is invited to telephone the undersigned.

Respectfully submitted,

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